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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Telephone Number Portability)	
)	CC Docket No. 95-116
)	
Petition for Forbearance of the)	DA 98-111
Cellular Telecommunications)	
Industry Association)	

**REPLY COMMENTS OF
360° COMMUNICATIONS COMPANY**

360° Communications Company ("360°")¹ hereby respectfully submits its reply comments in support of the Petition filed by the Cellular Telecommunications Industry Association ("CTIA") in the above-captioned proceeding.² In its Petition, CTIA requests that the Federal Communications Commission forbear under Section 10 of the Communications Act from requiring commercial mobile radio service ("CMRS") providers to implement service number portability at least until the five-year build-out period for broadband personal communications licensees has expired. 360° supports CTIA's petition and submits that the record clearly demonstrates that Section 10's forbearance standard is met in the instant request.

¹ 360° Communications Company is the second largest publicly held cellular communications company in the United States. The company offers wireless voice and data services to more than 2.45 million customers in more than 100 markets throughout 15 states. 360° also provides residential long distance and paging services.

² See *Wireless Telecommunications Bureau Seeks Comment on CTIA Petition Requesting Forbearance From CMRS Number Portability Requirements*, DA 98-111, (rel. Jan. 22, 1998).

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Pursuant to Section 10 of the Act, the Commission *must* forbear from enforcing any regulation where the following three-part test is satisfied. First, enforcement of the regulation at issue is not necessary to ensure that the charges, practices or classifications in connection with that telecommunications service are just and reasonable and are not unjustly or unreasonably discriminatory.³ Second, enforcement of such regulation is not necessary to protect consumers.⁴ Third, forbearance from applying such regulation is consistent with the public interest.⁵ As part of its public interest analysis, the Commission is required to consider whether forbearance will promote "competitive market conditions, including the extent to which such forbearance will enhance competition among providers."⁶ As described below, the record supports the conclusion that CTIA's request meets this statutory standard.

The record clearly demonstrates that wireless number portability is not necessary to ensure that CMRS providers' rates and practices are just and reasonable and not unjustly discriminatory. As several parties -- such as PrimeCo and Southwestern Bell Mobile Systems -- point out, the CMRS market is highly competitive and increased competition is continuing to flourish in the absence of number portability.⁷

³ See 47 U.S.C. § 160(a)(1).

⁴ 47 U.S.C. § 160(a)(2).

⁵ 47 U.S.C. § 160(a)(3).

⁶ 47 U.S.C. § 160(b).

⁷ See, e.g., Comments of PrimeCo Personal Communications, L.P., CC Docket No. 95-116, at 6-8 (filed Feb. 23, 1998) ("PrimeCo Comments"); Comments of Southwestern Bell Mobile Systems, Inc., CC Docket No. 95-116, at 5 (filed Feb. 23,

(Continued...)

Indeed, these and other parties cite the continued decline in CMRS prices along with an increase in service offerings from both existing providers and a variety of new entrants as strong evidence of a robust and highly competitive market.⁸ As emphasized by AirTouch and GTE, experience in the CMRS market since adoption of the wireless number portability requirement has demonstrated that devoting finite carrier resources to system build-out, digital system conversion, and expansion of system coverage promotes competition, thereby ensuring CMRS provider rates and practices are just and reasonable.⁹

Along similar lines, there is substantial evidence in the record to conclude that number portability is not necessary to protect consumers. For example, Bell Atlantic emphasizes that there is no evidence to suggest that the current lack of wireless number portability is discouraging subscribers from changing carriers.¹⁰ Rather, as several parties point out, consumers are highly sensitive to price and system coverage and will (and do) change carriers notwithstanding the fact that they often must change

(...Continued)

1998) ("Southwestern Bell Mobile Systems Comments").

⁸ See Comments of AirTouch Communications, CC Docket No. 95-116, at 5-6 (filed Feb. 23, 1998) ("AirTouch Comments"); Comments of GTE Service Corporation, CC Docket No. 95-116, DA Docket No. 98-111, at 6 (filed Feb. 23, 1998) ("GTE Comments"); Comments of Sprint Spectrum L.P. d/b/a Sprint PCS, CC Docket No. 95-116, DA Docket No. 98-111, at 2-3 (filed Feb. 23, 1998) ("Sprint PCS Comments").

⁹ AirTouch Comments 4-6; GTE Comments at 5-8.

¹⁰ Comments of Bell Atlantic Mobile, Inc., CC Docket No. 95-116, at 11-15 (filed Feb. 23, 1998).

not only their telephone number but also their wireless handset.¹¹ Similarly, AirTouch notes that, unlike the wireline telephone context, customers appear to place a lower value on retaining their wireless telephone number because they generally do not widely distribute or advertise this number.¹² Therefore, it is clear that consumers are adequately protected by price competition and market forces, absent number portability, because competition gives carriers an incentive to increase coverage areas, expand feature offerings, and reduce prices.

Finally, 360° agrees with CTIA and the vast majority of commenters that forbearance from enforcing the CMRS number portability requirement is in the public interest. In this regard, AirTouch correctly explains that forbearance will promote CMRS competition by enabling "CMRS carriers, including the new entrant PCS providers the rule was intended to benefit, to re-direct capital to the areas consumers value most: price discounts and network coverage."¹³ Similarly, the Rural Telecommunications Group expresses concern that enforcing number portability requirements would have the detrimental effect of dampening competition by requiring carriers to devote substantial resources at a time when system build-out and upgrade costs are necessary to remain competitive.¹⁴ The record makes clear that new entrants

¹¹ See, e.g., GTE Comments at 6; PrimeCo Comments at 9-10; Southwestern Bell Mobile Systems Comments at 4-7.

¹² AirTouch Comments at 8.

¹³ *Id.*

¹⁴ Comments of the Rural Telecommunications Group, CC Docket No. 95-116, at 4 (filed Feb. 23, 1998).

are in the process of aggressively building out systems in their markets.¹⁵ Likewise, existing carriers -- such as cellular providers -- are converting their analog systems to digital technology and expanding system capacity. Plainly, a number portability mandate will limit CMRS providers' ability to compete by diverting limited resources, and thus, is both undesirable from consumers' point of view and inconsistent with the pro-competitive goals of the Communications Act.

Moreover, the record underscores the need to forbear from applying number portability requirements for all CMRS providers, as requested by CTIA. As 360° can attest, in order to compete with new entrants' offerings, cellular providers must continue to build out their systems, increase capacity, and convert to digital technology.¹⁶ A requirement to direct a significant portion of their finite capital resources to the implementation of number portability will divert funds away from these activities, thus hampering cellular carriers' ability to compete and impeding the delivery of improved service to consumers. Further, as made clear in the record developed regarding CTIA's request for extension of the number portability implementation deadline,¹⁷ PCS, cellular and SMR providers alike face numerous technical impediments to implementing

¹⁵ See, e.g., PrimeCo Comments at 12-15; Southwestern Bell Mobile Systems Comments at 7.

¹⁶ See Comments of Upstate Cellular Network, CC Docket No. 95-116, at 2 (filed Feb. 23, 1998); Southwestern Bell Mobile Systems Comments at 7 n.13; GTE Comments at 5 n.8.

¹⁷ See, e.g., Reply Comments of 360° Communications Company, CC Docket No. 95-116, at 1-2 (filed Jan. 26, 1998); Comments of GTE Service Corporation, CC Docket No. 95-116, DA Docket No. 97-2579, at 2 (filed Jan. 9, 1998); Comments of PrimeCo Personal Communications, L.P., CC Docket No. 95-116, at 1 (filed Jan. 9, 1998).

wireless number portability, such as MIN/MDN separation complexities not present in wireline local number portability implementation, that are yet to be resolved.¹⁸ Given these widespread technical difficulties, all CMRS providers are deserving of relief. In 360's view, forbearance with respect to all CMRS carriers -- new entrants and existing providers alike -- also will maintain the regulatory parity at the heart of the Commission's policies implementing Section 332 and other provisions of the Act.

For the foregoing reasons, the Commission should grant CTIA's petition for forbearance. The record clearly indicates that forbearance is warranted under Section 10's statutory standard and that CMRS carriers should be permitted to devote their

¹⁸ Further, the fact that certain wireless technologies may facilitate service provider number portability without extensive technical changes does not provide a basis to require number portability. See Comments of Microcell Telecommunications, Inc., DA Docket No. 98-111, CC Docket No. 95-116, at 3 (filed Feb. 24, 1998). The majority of CMRS providers do not use such technologies, and the Commission's policies should not be governed by the fact that implementation may be more feasible in limited cases.

limited resources to ensuring continuing, high-quality and reliable wireless service to the public.

Respectfully submitted,

360° COMMUNICATIONS COMPANY

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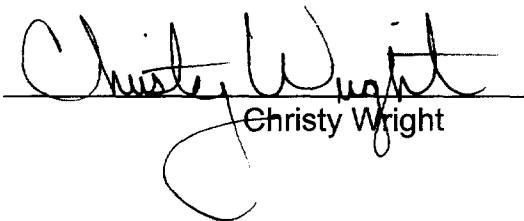
CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of March, 1998, I caused copies of the foregoing Reply Comments of 360° Communications Company to be mailed via first-class postage prepaid mail to the following:

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